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need issuance reviews, appeals, disputes or court proceedings are not allowable regardless of outcome. Legal services associated with a provider's initial certificate of need request shall be allowable;

- Advertising costs that are (a) for fundraising purposes, (b) incurred in the sale or lease of a facility or agency or in connection with issuance of the provider's own stock, or the sale of stock held by the provider in another corporation, (c) for the purpose of increasing patient utilization of the provider's facilities; (d) for public image improvement, or (e) related to government relations or lobbying.
- Funds expended for personal purchases.

1002.2 Total Allowed Per Diem Billing Rate for Facilities for Which a Cost Report is Used To Set a Billing Rate

For dates of service beginning July 1, 2002, the 2001 Cost Report is the basis for reimbursement.

For these facilities the following formulas apply:

Total Allowed Per Diem Billing Rate =

Allowed Per Diem + Efficiency Per Diem +
Growth Allowance

Allowed Per Diem =

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Summation of the (Net Per Diem or Standard Per Diem, whichever amount is less as to the facility) for each of the four Non-Property Cost Centers plus the Net Per Diem for the Property and Related Cost Center. The Property and Related Cost Center reimbursement for those facilities whose cost reimbursement is limited to the standard (90th percentile) per diem in this cost center will be based upon the standard per diem calculated from the cost reports for the year ending June 30, 1981.

Efficiency Per Diem =

Summation of (Standard Per Diem minus Net Per Diem) x 75% up to the Maximum Efficiency Per Diem for each of the five cost centers.

Growth Allowance =

Summation of 6.8% of the Allowed Per Diem for each of the four Non-Property and Related cost centers.

Further explanation of these terms is included below:

- a. In general, the Net Per Diem is determined from the costs of operation of the individual facility in which eligible patients reside. These reports are determined by utilizing the information submitted by the facility on its Cost Report.

All amounts and supporting data submitted on the Cost Report are subject to verification and adjustment by the Division. These modifications concern: mathematical calculation errors; limitations placed on allowable costs by the Nursing Home Manual, and the documents, principles, and criteria referenced therein; reasonableness limitations placed on salaries paid employees of the facility; reasonableness limitations using the principles contained in CMS-15-1; or other parameters placed on reasonable cost by the Division. These modifications basically concern what expenses are attributable to the care received and the

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reasonableness of the amounts of expenses which are attributable to care. See Appeals Section of this Manual for appellate procedures to resolve disputes of specific contested adjustments. Specifically, the Net Per Diem for each of the five cost centers is determined as follows (all Schedule references are to the Cost Report):

See Section 1002.5 of the Nursing Facility Manual for additional description of such limitations.

Allowable Home Office salary costs are limited to an appropriate maximum. Fringe benefits are also limited to an appropriate maximum. (A per bed salary ceiling also is imposed, based on the 70th percentile of costs per the 1988 home office cost reports, plus an allowance for inflation. Home Office salaries and related fringe benefits are subjected to a \$100,000 maximum salary for CEO, COO, CFO and other Home Office personnel. Therefore, in addition to the per bed salary ceiling, we have incorporated a position maximum of \$100,000 to be applied only to owners of nursing facilities and related parties.) Reimbursement for the cost of home office vehicle is eliminated, except to the extent that home office vehicle costs can be included with related home office salaries as a fringe benefit, and in total, fall below any designated maximums.

Routine and Special Services Net Per Diem =

For all State Institution Distinct Part Nursing Facilities, Level I Net Per Diem = (Historical Level I Routine and Special Services (Schedule B, Lines 5 plus 7, Column 4) divided by (Total Level I Patient Days, Schedule A, Line 13, Column 6).

ICF-MR Net Per Diem =

(Historical ICF-MR Routine and Special Services (Schedule B, Lines 6 plus 7, Column 4) divided by (Total ICF-MR Patient Days, Schedule A, Line 13, Column 7).

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When costs for State Distinct Part Nursing Facilities can be identified, be they routine services or special services, the costs will be allocated as identified. Where costs have not been identified, the patient days method will be used to allocate costs.

Historical Routine and Special Services, Schedule B, Line 5 plus Line 6, plus Line 7, Column 4 Divided By Total Patient Days

Dietary Net Per Diem =

Historical Dietary, Schedule B, Line 8, Column 4, Divided By Total Patient Days

Laundry and Housekeeping and Operation and Maintenance of Plant Net Per Diem =

Historical Laundry, Housekeeping, Operation and Maintenance of Plant, Schedule B, Lines 9 plus 10, Column 4, Divided By Total Patient Days

Administrative and General Net Per Diem =

Historical Administrative and General, Schedule B, Line 11, Column 4, Divided By Total Patient Days

Property and Related Net Per Diem =

For a facility with a Property and Related Net Per Diem in excess of the Property and Related Standard Per Diem, the Net Per Diem will be reduced to the Standard Per Diem. For any facility having a property transaction after May 6, 1981, (excluding leases for which the Division had approved rates on or before that date) the total Property and Related Net Per Diem, shall not exceed the Standard Per Diem.

Costs for property taxes and property insurance, as defined in the Uniform Chart of Accounts, are included but are not subject to the property and related cost center Standard Per Diem.

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Historical Property & Related, Schedule B, Line 12, Column 4,
Divided By Total Patient Days

The Return on Equity Percent is 0% for all facilities.

Facilities reimbursed as of June 30, 1994, and June 30, 1995, for actual arm's length property and related costs will be reimbursed at the Dodge Index rate if a change in the audited reimbursement rate results in a per diem increase.

Facilities reimbursed as of June 30, 1994, and June 30, 1995, at actual arm's length property and related costs including those subject to standards, will not be reimbursed at the Dodge Index rate if a change in audited reimbursement results in a per diem decrease, unless a property transaction occurs as described in Section 1002.5(a) in which case the Dodge Index will apply. Until the Dodge Index applies to these facilities, reimbursement will continue at actual arm's length property and related costs.

Facilities reimbursed for actual property and related costs will be reimbursed at the Dodge Index rate as described in Section 1002.5(a) through (f) below, if actual property and related costs per diem become less than the Dodge Index rate or if there is a property transaction according to Section 1002.5(a).

Facilities reimbursed at the Dodge Index rate will remain at Dodge Index rate for all subsequent periods.

- b. Standard Per Diem for each of the five cost centers is determined after facilities with like characteristics concerning a particular cost center are separated into distinct groups. Once a group has been defined for a particular cost center, facilities in a group shall be ordered by position number from one to the number of facilities in the group, arranged by Net Per Diem from the lowest (Number "1") to the highest dollar value Net Per Diem. The number of facilities in the applicable group shall be

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multiplied by the Maximum Percentile, or a median net per diem may be chosen, with the Maximum Cost per day being determined as a percentage of the median. The Maximum Cost per day for the Administrative and General costs of all nursing facilities eligible for efficiency incentive payments is 105% of the median cost per day within each peer group. The Maximum Percentile is the eighty-fifth for Laundry and Housekeeping and Operation and Maintenance of Plant cost centers. The Maximum Percentile is the ninetieth percentile for the Routine Services and Special Services, Dietary and the Property and Related cost centers. The method for determining the maximum allowable cost per day for nursing and dietary services for those nursing homes in a peer grouping of hospital based facilities will be modified. The current maximum allowable cost per day, set at the 90th percentile of costs for peer group members, will be reduced by 25% of the amount by which the 90th percentile amount for hospital based peer group exceeds the 90th percentile amount for peer groups of free-standing facilities for all hospital based nursing facilities located in a county that is within a Metropolitan Statistical Area (MSA). Such peer groups of free-standing facilities would not include any peer groups of skilled nursing facilities, intermediate care facilities for the mentally retarded or facilities with less than 50 beds. The resulting product shall be rounded to the closest whole number. If the resulting product falls exactly halfway between two whole numbers, the Standard Per Diem for that group shall be the mean of the Net Per Diems of the two facilities in the group which have position numbers equal to the two whole numbers between which the product lies. The standard Per Diem for a group shall be the Net Per Diem of that facility in the group which has the position number equal to the rounded product determined in accordance with the previous two sentences.

The grouping will be done using Net Per Diem for each cost center that has been reported by the facility, and calculated by the

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Division on June 30, 2002. Standards effective July 1, 2002, will not be recalculated based upon changes in rates due to subsequent determination of additional allowable cost, disallowance of previously allowable cost or any change in the Net Per Diem in any cost center.

There are several instances where a facility could fall in more than one group. In these cases, the following rules apply:

- a) Hospital-based Level II facilities are classified as hospital-based.
- b) Intermediate care facilities for the mentally retarded which also are distinct part are classified as intermediate care facilities for the mentally retarded.

For the purpose of determining the Standard Per Diem and the Allowed Per Diem for each cost center, a facility is grouped according to the type facility it is as of June 30, 2002.

If a facility changes classification to hospital-based or grouping on January 1 through June 30 of any calendar year, it will be grouped into its new category for reimbursement purposes for dates of services July 1 of that year and thereafter. If a facility changes classification as described above on July 1 through December 31 of any calendar year, regrouping will occur from January 1 of the following year. For further information on classification of nursing facilities, see Section 1006.

Routine and Special Services Standard Per Diem

For this Standard Per Diem, all nursing facilities shall be grouped according to the mix of patients within the facility and freestanding versus hospital-based, as follows:

Level I Nursing Facility

Hospital-Based Nursing Facility with more than fifty beds

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Distinct Part Nursing Facility with more than fifty beds

Level II Nursing Facility (Intermingled Care) with more
than fifty beds

Intermediate Care Facility for the Mentally Retarded

Hospital-Based, Distinct Part, or Level II Nursing Facility
(Intermingled Care) with fifty beds or less

Dietary Standard Per Diem

For this Standard Per Diem, all nursing facilities shall be
grouped according to the mix of patients within the facility
and freestanding versus hospital-based, as follows:

Level I Nursing Facility

Hospital-Based Nursing Facility

Intermediate Care Facility for the Mentally Retarded

Level II or Distinct Part Nursing Facility with fifty beds or
less

Level II or Distinct Part Nursing facility with fifty-one to
one hundred beds

Level II or Distinct Part Nursing Facility with more than
one hundred beds

Laundry and Housekeeping and Operation and Maintenance
of Plant Standard Per Diem

For this Standard Per Diem, all nursing facilities shall be
grouped according to the mix of patients within the facility
and freestanding versus hospital-based, as follows:

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Level I, Level II, Hospital-Based, or Distinct Part Nursing
Facility with fifty beds or less

Level I, Level II, Hospital-Based, or Distinct Part Nursing
Facility with fifty-one to one hundred beds

Level I, Level II, Hospital-Based, or Distinct Part Nursing
Facility with more than one hundred beds

Intermediate Care Facility for the Mentally Retarded

Administrative and General Standard Per Diem

For this Standard Per Diem, all nursing facilities shall be
grouped according to the mix of patients within the facility
and freestanding versus hospital-based, as follows:

Level I, Level II, Hospital-Based, or Distinct Part Nursing
Facility with fifty or less beds

Level I, Level II, Hospital-Based, or Distinct Part
Nursing Facility with fifty-one to one hundred beds

Level I, Level II, Hospital-Based, or Distinct Part
Nursing Facility with more than one hundred beds

Intermediate Care Facility for the Mentally Retarded

Property and Related Standard Per Diem

For this Standard Per Diem, all nursing facilities shall be
grouped by the age of the facility as follows:

All facilities constructed five or less than five years ago

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All facilities constructed ten or less than ten years ago, but
more than five years ago

All facilities constructed more than ten years ago

For purposes of this Standard Per Diem, the age of the
facilities as of October 1976 will be used. For facilities
with buildings constructed in different years, the composite
age of the facility is computed using the number of square
feet contained in each unit to produce a weighted average
age.

- c. The Efficiency Per Diem represents the summation of the
Efficiency Per Diem for each of the five cost centers. If the
Net Per Diem is equal to or exceeds the Standard Per Diem
in any cost center, or if the Net Per Diem is equal to or less
than 15% of the Standard Per Diem, the Efficiency Per
Diem for the cost center is zero (\$0.00). If the Net Per
Diem is less than the Standard Per Diem in any cost center,
and if the Net Per Diem is more than 15% of the Standard
Per Diem, the Efficiency Per Diem for the cost center is
calculated by subtracting the Net Per Diem from the
Standard Per Diem for that cost center and then multiplying
the difference by .75. The product represents the Efficiency
Per Diem for that cost center subject to the following
maximums:

Routine and Special Services Maximum Efficiency Payment	\$0.53
Dietary Maximum Efficiency Payment	\$0.22
Laundry and Housekeeping and Operation and Maintenance of Plant Maximum Efficiency Payment	\$0.41
Administrative and General Maximum Efficiency Payment	\$0.37